

**Subject:** BCDC Permit for Heron's Bay Development /M1992.057  
**Date:** Thursday, May 8, 2014 4:47:31 PM Pacific Daylight Time  
**From:** Ande Bennett  
**To:** cynthia@pas-inc.com  
**CC:** Adrienne Klein, Brad McCrea, EPenaranda@sanleandro.org, cbattenberg@sanleandro.org, tliao@sanleandro.org  
**BCC:** Lee Huo

Cynthia,

It has come to our attention that the Heron Bay HOA (HOA) is pursuing a modification of San Leandro PD-91-3 to allow construction of a gate between Lewelling Blvd and Bay Front Road that would be used to restrict night time access to Bay Front Street.

The bike paths and buffer areas at this location are part of the shoreline access pathway system required by Commission permits issued in 1994 to the City of San Leandro (Permit No.1989.014) and Citation Homes (M1992.057). The HOA is the apparent assignee to the Citation Homes permit (the permit), therefore, I am attaching it here along with the City's notice of the pending hearing about the HOAs proposal for gates.

On pages 5-7 of the permit, Special Condition II.F requires the permittee and/or its assignees to construct, maintain, and permanently make available to the public a bicycle/pedestrian facility extending from Lewelling Blvd westerly along Bay Front, Neptune Drive, etc, as depiction in Exhibit A to the permit. The legal instrument permanently guaranteeing the public's rights (a recorded CC&R with metes and bounds survey and map) was to be submitted for review within 60 days of the issuance of the permit, but it appears this did not occur.

*Regarding a night time closure of the pathway, please understand that the permit does not authorize any such restrictions and, to date, we have not received a request from the HOA to modify the permit for this purpose. If the HOA submits a request in the future, staff would not be able to approve night time closure unless the HOA provides police reports confirming a significant pattern of crime or other public safety issues in this location that would justify granting such a rule. The City has indicated to me that no public safety issues currently exist at this location.*

If PAS Management or the Heron Bay HOA have a copy of an executed public access guarantee (the CC&R between Citation Homes and BCDC, required by paragraph II.F.2), please submit it immediately. If you do not, contact me next week to discuss how the HOA may resolve this permit compliance failure in order to avoid formal enforcement. I trust you will forward this email and its attachments to the HOA.

Sincerely,

Ande  
ANDREA BENNETT, Coastal Program Analyst  
San Francisco Bay Commission (BCDC)  
455 Golden Gate Avenue, Suite 10600  
San Francisco CA 94102-7019  
415 352-3600 front desk  
415 352-3626 direct

<http://heronbayhoa.org/page/16271~200732/PAS-Management-Contacts>

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION  
**Violation Investigation Report Form**

Report Taken By:

Date:

Time:

April 10 2014

Reported By:

Mailing Address:

Telephone No.:

Andre B

Description of Alleged Violation:

failure to guarantee public access required by  
mitigation project @ Roberts Landing / Est

Location, City, County:

APN(s):

Roberts Landing West of Llewelling Blvd

Name of Accused:

Mailing Address:

Telephone No.(s):

~~Successor to Citation Homes Developer - possibly~~

Heron's Bay HOA

Name of Contractor/Agent:

Mailing Address:

Telephone No.(s):

~~Elmer Rodriguez, NIA Engineer~~

Investigated By:

Date Undertaken:

(see 1989.014 also)

Date ER File Established:

Number Given:

Related File(s):

5/14/14

ER-2014.015

m 1992.057

Details of Facts and Contacts to Prove or Further Explain Violation(s):

This per guarantee overlaps to some degree,  
(~~per guarantee~~?) with requirement in  
Permit 1989.014.02, which is also a violation

How Resolved and When:

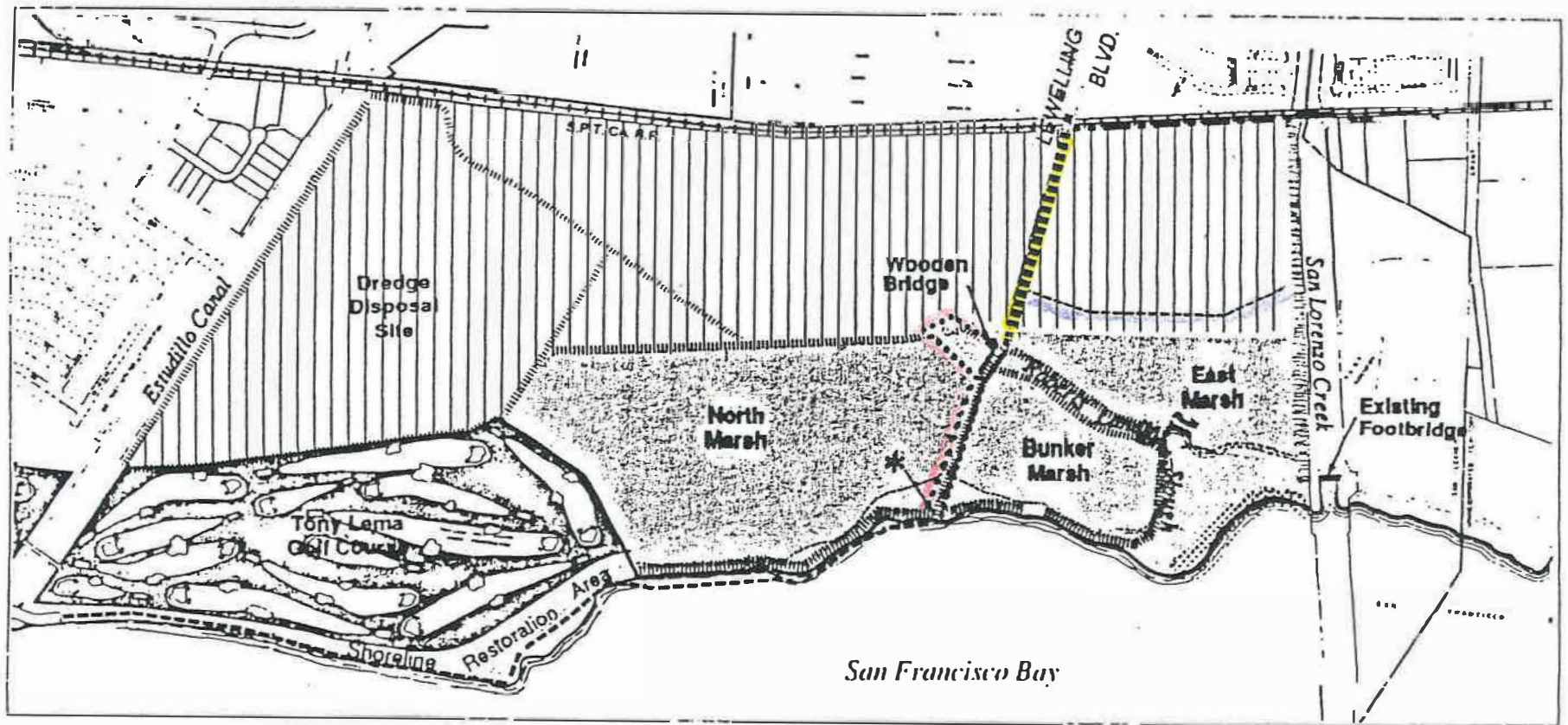


Exhibit "B"

- |           |   |  |
|-----------|---|--|
|           | Levee   | <b>KEY</b><br><div style="display: flex; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 15px; margin-right: 5px;"></div> Project Site </div> <div style="display: flex; align-items: center;"> <div style="border-left: 2px solid black; width: 30px; height: 15px; margin-right: 5px;"></div> Concrete Bridge </div> <div style="display: flex; align-items: center;"> <div style="background-color: #d3d3d3; width: 30px; height: 15px; margin-right: 5px;"></div> Sand Dune Area </div> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; width: 30px; height: 15px; margin-right: 5px;"></div> Citation Property </div> |
| - - - - - | Existing Shoreline Trail/<br>Emergency Vehicle Access               |  |
| .....     | Public Access Trail/Emergency Vehicle<br>Access Connector Segment 1 |  |
| .....     | Public Access Trail Segment 2                                       |  |
| .....     | Public Access Trail Segment 3                                       |  |
| *         | Minor Levee Widening  |  |

SOURCE: City of San Leandro;  
Environmental Science Associates, Inc.

Citation Homes, Inc.  
Required Public Access Areas

BCDC Permit M92-57

Public Access Trails /  
Emergency Vehicle Access Connector

Exhibit A